THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

W.A.No.2083 of 2005

JUDGMENT: (Per the Hon'ble Dr. Justice G.Yethirajulu)

This appeal has been preferred by the petitioners in W.P.No.22526 of 2004 on the file of this Court against the order of a learned single Judge dated 24-03-2005 dismissing the writ petition without costs.

2. The petitioners sought to declare that the action of the respondent in initiating disciplinary action against them through a charge sheet dated 30-09-2004 as arbitrary, unreasonable and unsustainable under law. The contentions of the petitioners as mentioned in the affidavit of the first petitioner filed in support of the writ petition are briefly as follows:-

The petitioners are the employees of the respondent-bank working as Scale-I officers. The first petitioner is the President, the second petitioner is the Joint Secretary and the third respondent is the Secretary of the respondent bank officers' union. It is a minority association of the officers. There is another union known as Rayalaseema Grameena Bank Staff Association, which represents the staff of the bank and it is also a minority union. Both unions formed a co-ordination committee to ventilate the grievances of the employees of the bank. The majority unions of the bank are being pampered by the management and the members of the minority union are subjected to discrimination and step motherly treatment in various aspects touching upon the transfers, promotions etc. Many irregularities in the performance of the duties of the employees are going on causing illegal benefit to the members of the majority unions. The management has not shown any interest in solving the problems of the members of the minority unions, therefore, co-ordination committee of the minority unions decided to ventilate their grievances to the Hon'ble Speaker of the Lok Sabha, Finance Minister, Labour Minister and other important persons of high offices. In pursuance of the said decision, the representation dated 18-06-2004 was sent to the Hon'ble Speaker of the Lok Sabha highlighting the discrimination

shown to the members of the minority unions and seeking redressal of those grievances. The copies of the representations were also forwarded to certain members of the Parliament representing the local constituencies.

3. The respondent found fault with the action of the petitioners in sending representation to the Hon'ble Speaker of Lok Sabha, and charge sheeted them by framing the following charges on 30-09-2004:

> *"Charge No.1:*
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> *You had addressed a letter dt.18.6.2004 to the Hon'ble Speaker, Parliament House complaining to him about the various affairs of the bank i.e., interchange in the cadre of Scale III Officers, transfers, promotions etc., and requested him to order a Judicial enquiry into the contents of your complaint. Besides, you had endorsed the copies of the said letter to several Public Servants, Politicians, M.Ps., and a host of other dignitaries.*
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> *Charge No.2:*
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> *You had in the letter dated 18.6.04, addressed to the Hon'ble Speaker of Parliament House, indicated that Mr. M. Gangi Reddy, has signed as chairman/General Secretary on behalf of Rayalaseema Grameena Bank, Staff Association though he had not signed the said letter in reality, thus you had misrepresented the facts. Your above action clearly discloses that you had done with mischievous intention of misleading and influencing the Members of Rayalaseema Grameena Bank Staff Association to which Mr. M. Gangi Reddy is acting as General Secretary. Your above act is nothing but an attempt to mislead the section of the employees of the bank besides showing wrongly to the authorities/Management of the Bank that there is a support from another Union to your allegations and it discloses your doubtful integrity.*
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> *Charge No.3:*
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> *You had signed the letter dt.18.6.04 which is under reference in the capacity of legal advisor/Secretary to the Co-ordination Committee of RGB Staff Association and RGB Officers' Union, thereby violated Regulation No.31 of Rayalaseema Grameena Bank (Officers & Employees) Service Regulations 2001. As per the above regulation no Officer who is not a "workman" within the meaning of the Industrial Disputes Act, 1947 shall become or continue to be a member or Officer Bearer, or otherwise directly or indirectly associated with, any Trade Union of the Employees of the Bank who are "workmen" within the meaning of that Act, or a Federation of such Trade Unions.*
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> *Article No.4:*
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> *You are acting as legal advisor/Secretary to the*
> *Co-ordination Committee of RGB Staff Association and RGB Officers' Union as per the letter dt.18.6.04 addressed to the Hon'ble Speaker of Parliament House,*

without the permission from the Competent authority. This is violation of Regulation NO.21 of Rayalaseema Grameena Bank (Officers & Employees) Service Regulations 2001."

4. The action of the respondent in issuing the charge sheet proposing disciplinary action is illegal, vindictive and arbitrary. The sending of representation was in pursuance of the decision of the minority unions and not by the petitioners in their individual capacity, therefore, the petitioners are not liable for any disciplinary action. Regulations 17, 18, 19 and 21 cannot be invoked in the set of present circumstances. Though the disciplinary proceedings are at initial stage, the show cause notice itself is sufficient to maintain the writ petition since the misconduct attributed to the petitioners does not fall under any of the Regulations, hence, the writ petition seeking the relief as mentioned above.

5. The learned single Judge heard both sides and passed the following order:-

"The authority, who passed the order, is not under challenge. The ground taken in the affidavit filed in support of the writ petition is that the alleged misconduct of the petitioners does not fall under any one of the Service Regulations. That aspect is to be decided by the Enquiry Officer. Prima facie, addressing a letter to the Honourable Speaker, Parliament House complaining about various affairs of the Bank, is a gross indiscipline on the part of the petitioners. Therefore, initiation of disciplinary action cannot be said to be arbitrary and illegal. The writ petition is devoid of merit.

Therefore, the Writ Petition is dismissed."

6. The learned counsel for the appellants-petitioners submitted that the learned single Judge without verifying the contents of the representation made by the petitioners, the relevant regulations, the law governing the field and without assigning any reasons for coming to a conclusion, abruptly observed "*Prima facie, addressing a letter to the Honourable Speaker, Parliament House complaining about the various affairs of the Bank, is a gross indiscipline on the part of the petitioners*" . This finding of the learned single Judge caused any amount of prejudice to the appellants, since the above findings would have any amount of influence on the mind of the enquiry officer, therefore, the order of the learned single Judge is liable to be set aside.

7. The respondent framed charges against the appellants alleging that they violated the provisions of Rayalaseema Grameena Bank (Officers and Employees) Service Regulations, 2001. The factum of appellants sending representation to

the Hon'ble Speaker of Lok Sabha by marking copies to Representatives of the People and officers of high positions is not in dispute. Whether the appellants sending such representation against the management alleging non-shifting of scale-III officers as per the guidelines in force, resorting to unethical transfers of employees by showing discriminatory attitude towards some of the employees, retaining senior officers at the same places after giving promotions, giving scope for money laundering by the officers by retaining them at the places of their choice, giving scope to such officers to loot the farmers who were approaching the respective branches for loans, deviation from the guidelines regarding the promotions etc., amount to misconduct under the Regulations or not has to be decided after hearing both parties to arrive at a conclusion regarding the truthfulness or otherwise of the allegations in the enquiry. No illegality was pointed out by the appellants in the initiation of the action against them. If the enquiry officer finds that the actions attributed against the appellants do not attract the provisions of the Regulations, the enquiry officer would come to such conclusion and would pass appropriate orders. The truthfulness of the allegations has to be considered after verifying various facts that are likely to be placed before the enquiry officer. It is not desirable for a writ court to enter into the arena of disputed facts, when there is a specific provision under the Regulations for conducting an enquiry regarding such allegations.

8. The learned counsel for the appellants submitted that by virtue of the provisions of the Freedom of Information Act, 2002, the appellants are entitled to divulge the information of their organization to others and such disclosure of certain happenings does not amount to misconduct under the Regulations, therefore requested to hold that the charge sheet issued against the appellants is arbitrary and u*ltra vires*.

9. Whether the provisions of Freedom of Information Act, 2002 are applicable to the present set of facts or not is also a question to be considered during the course of enquiry. In the light of the appellants being governed by the Regulations of the bank, initiating action against them for the alleged misconduct cannot be treated as arbitrary unless the appellants are able to make out any illegality in the initiation of the proceedings.

10. In the light of the above circumstances, the learned single Judge was right in dismissing the writ petition as devoid of merits.

11. The learned counsel for the appellants expressed an apprehension that the

observation of the learned single Judge "*Prima facie, addressing a letter to the Honourable Speaker, Parliament House complaining about the various affairs of the Bank, is a gross indiscipline on the part of the petitioners*" is likely to cause prejudice in the mind of the enquiry officer, therefore the said observation is liable to be set aside.

12. After hearing both counsel, we are making it clear that the above observation of the learned single Judge shall not influence the enquiry officer while conducting enquiry and giving findings on merits. We do not find any grounds to interfere with the order of the learned single Judge.

13. In the result, the writ appeal is dismissed. No order as to costs.

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B.PRAKASH RAO, J

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Dr.G.YETHIRAJULU, J

Date: -12-2005.

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